

Calendar No. 230

105TH CONGRESS }
1st Session }

SENATE

{ REPORT
105-117

PROVIDING FOR THE CONVEYANCE OF CERTAIN LANDS IN THE SIX RIVERS NATIONAL FOREST IN THE STATE OF CALIFORNIA FOR THE BENEFIT OF THE HOOPA VALLEY TRIBE

OCTOBER 29, 1997.—Ordered to be printed

Mr. CAMPBELL, from the Committee on Indian Affairs,
submitted the following

REPORT

[To accompany H.R. 79]

The Committee on Indian Affairs, to which was referred the bill (H.R. 79) to provide for the conveyance of certain lands in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 79 is to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe.

BACKGROUND AND NEED FOR LEGISLATION

In 1858, in response to recurrent skirmishes between settlers and Indians in the rugged coastal mountains of northwestern California, the U.S. Army established Fort Gaston in Hoopa Valley in an effort to confine friendly Indians to the Valley. Pursuant to agreements made in 1862 and 1864, “the whole of Hoopa Valley” was reserved for Indian use.

These agreements established the reservation’s boundaries and were clearly intended to provide for a 12-mile by 12-mile square area bisected by the Trinity River. In subsequent years, however, non-Indians staked claims to minerals and timber within the Valley despite repeated warnings from the U.S. Indian Agent that the

claims were within the reservation. In 1875, government surveyors disregarded the directions of the Indian agent regarding the location of the boundary and instead heeded a local Army commander and drew the boundary to exclude 2,641 acres at the southeastern corner of the otherwise square reservation to accommodate the encroaching non-Indians. Although the mining claims were abandoned within a year, the reservation boundary was not changed, and the excluded acreage later became part of the Six Rivers National Forest.

Although the acreage in question has been timbered under Forest Service auspices, it nevertheless remains important to the Hoopa Valley Tribe, which has long sought to have it restored to their reservation. The property contains graves and the remains of an ancient village of the Tish-Tan-A-Tang Band of Hoopa Indians, and tribal members use the land for ceremonies and other traditional purposes. There are no existing inholdings or special use permits with respect to this property.

H.R. 79 would transfer the approximately 2,641-acre parcel of land to the Hoopa Valley Tribe. The land would be held in trust by the United States for the Tribe and made a part of the Hoopa Valley Reservation. With this conveyance, the reservation boundary would conform to the description originally agreed to by the Tribe with federal agents in 1862 and 1864. Three Forest Service roads on the land would be made part of the Indian Reservation System, ensuring that the roads will continue to be managed as public roads and provide access east to the Trinity Alps Wilderness and west to the Trinity River and the Tish-Tang campground. The Tribe would assume management of the campground.

LEGISLATIVE HISTORY

H.R. 79 was introduced on January 7, 1997, by Representative Frank Riggs (R-CA). The Subcommittee on Forests and Forest Health of the Committee on Resources held a hearing on H.R. 79 on May 6, 1997, at which the Administration witness supported the bill and recommended several amendments that were acceptable to the Tribe and which were adopted by the Full Committee when it ordered the bill favorably reported on May 21, 1997. The House passed H.R. 79 by voice vote on June 3, 1997. Senator Barbara Boxer (D-CA) introduced an identical bill, S. 894, on June 12, 1997. The Committee on Indian Affairs held a hearing on H.R. 79 on October 20, 1997. Witnesses including Representative Riggs (R-CA), Janice McDougle, Deputy Chief of the U.S. Forest Service, and Hoopa tribal chairman Duane Sherman, Sr., testified in support of H.R. 79 as it was passed by the House.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On October 23, 1997, the Committee on Indian Affairs, in an open business session, considered H.R. 79 and, by unanimous vote, ordered H.R. 79 to be favorably reported to the Senate without amendment and with a recommendation that it do pass.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

Section one cites the short title of the bill as the “Hoopa Valley Reservation South Boundary Adjustment Act”.

Section 2. Transfer of lands within Six Rivers National Forest for Hoopa Valley Tribe

Section 2(a) provides that the lands described in Section 2(b) shall be administered by the Secretary of the Interior and be held in trust by the United States for the Hoopa Valley Tribe and be part of the Hoopa Valley Reservation. Upon inclusion of the lands in the Reservation, Forest System roads on the lands will become Indian reservation roads as defined in section 101(a) of title 23 of the United States Code.

Section 2(b) provides a description of the approximately 2,641 acres to be transferred by Section 2(a).

Section 2(c) declares the boundary of the Six Rivers National Forest to be adjusted to exclude the lands to be transferred by this section.

Section 2(d) directs the Secretary of the Interior, acting through the Bureau of Land Management, to survey and monument that portion of the boundary of the Hoopa Valley Reservation established by the addition of the lands described in section 2(b).

Section 2(e) provides that the transfer of lands to trust status under this section extinguishes all claims the Tribe might have against the United States based on allegation of error in establishing the reservation boundaries or for a Fifth Amendment taking with respect to the transferred lands prior to enactment of this Act.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for H.R. 79, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 24, 1997.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 79, the Hoopa Valley Reservation South Boundary Adjustment Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kristen Layman.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 79—Hoopa Valley Reservation South Boundary Adjustment Act

CBO estimates that enacting H.R. 79 would result in a net increase of about \$50,000 in discretionary spending in fiscal year 1998 and a decrease of about \$20,000 a year thereafter, assuming appropriations consistent with the act's provisions. Enacting H.R. 79 also would affect direct spending by reducing offsetting receipts; therefore, pay-as-you-go procedures would apply to the act. We estimate, however, that the loss of offsetting receipts would be less than \$10,000 a year.

H.R. 79 would transfer into trust for the Hoopa Valley Tribe about 2,641 acres of land in the Six Rivers National Forest. Upon transfer of the land, the tribe would assume management of the land, including the Tish-Tang Campground and three Forest Service roads. For the purpose of this estimate, CBO assumes that H.R. 79 will be enacted within the next month, at which time the land and management of the campground and roads would transfer to the tribe.

This act would increase discretionary spending in fiscal year 1998 by requiring the Bureau of Land Management (BLM) to survey and mark the boundary of the land to be transferred. Based on information from BLM and the Forest Service, we estimate that BLM would spend about \$70,000 in fiscal year 1998 for the land survey activities, assuming appropriation of the necessary amounts. However, the Forest Service would save about \$20,000 a year in management and maintenance costs for the campground once the land transfer takes place. There would be no net budgetary impact from transferring the roads to the tribe, because the federal government will continue to pay for their maintenance.

Once the land is transferred to the tribe, the federal government would forgo offsetting receipts from campground fees and miscellaneous forest product permits. We estimate that the net loss of receipts would total less than \$10,000 a year. According to the Forest Service, there would be no loss of timber receipts because all timbering on the land has been completed.

H.R. 79 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments. By voluntarily accepting the land transfer, the Hoopa Valley Tribe would also accept responsibility for managing the campground, along with the associated costs.

On June 2, 1997, CBO prepared a cost estimate for H.R. 79 as ordered reported by the House Committee on Resources on May 21, 1997. The two versions of H.R. 79 are identical, as are the estimates.

The CBO staff contact for this estimate is Kristen Layman. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regu-

latory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that H.R. 79 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee received written testimony for the United States Forest Service, Department of Agriculture, for the hearing held on October 20, 1997. The written testimony from the Administration is as follows:

STATEMENT OF JANICE MCDUGLE, ASSOCIATE
DEPUTY CHIEF, NATIONAL FOREST SYSTEMS,
FOREST SERVICE

Mr. Chairman and members of the Committee: I am pleased to appear before the Committee today to discuss H.R. 79, a bill to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe. H.R. 79 would transfer approximately 2,640 acres of land in the Six Rivers National Forest to the Hoopa Valley Tribe to be held in trust by the United States and made part of the Hoopa Valley Reservation. It would further require that the Secretary of the Interior, acting through the Bureau of Land Management, survey and identify the new boundary created by the transfer. Three Forest Service roads within the area would become Indian Reservation roads. The bill, passed by the House, includes amendments worked out with the Administration and the Hoopa Valley Tribe. Therefore, the Administration supports the passage of H.R. 79 by the Senate.

The land to be transferred consists of a part of the Six Rivers National Forest adjacent to the southern boundary of the Hoopa Valley Reservation. The land currently is included within the Northwest Forest Plan. The three roads on the land to be transferred would be made part of the Indian Reservation System as defined in 23 U.S.C. 101(a); this would ensure the roads would continue to be managed as public roads and provide access east to the Trinity Alps Wilderness and west to the Trinity River and the Tish-Tang campground. The Tribe would also assume management of the campground.

The Forest Service and the Hoopa Valley Tribe have a history of cooperating on use of National Forest land on a government-to-government basis. The Tribe has the natural resource expertise to manage the land consistent with the President's Plan for the Pacific Northwest.

Mr. Chairman, we appreciate the opportunity to work with the Tribal Chair, Mr. Duane Sherman and the other officials of the Hoopa Valley Tribe. We appreciate the work of past Tribal Chair, Mr. Dale Risling. We look forward to continuing to work together on a government-to-government basis. On Forest Service lands, the Forest Service wants to manage in a manner consistent with the govern-

ment-to-government relationship and our Trust responsibilities with Native American Tribal Governments. This concludes my statement and I would be happy to answer questions.

CHANGES IN EXISTING LAW

If enacted, H.R. 79 would make no changes in existing law.

